



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P.O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

REPLY TO
ATTENTION OF

Planning Division
Environmental Branch

FEB 22 2008

Mr. Michael Barnett, P.E.
Chief, Bureau of Beaches and Coastal Systems
Florida Department of Environmental Protection,
5050 West Tennessee Street Building B
Tallahassee, Florida 32304

Dear Mr. Barnett:

In accordance with regulations pertaining to the National Environmental Policy Act (Title 40 of the Code of Federal Regulations, part 1501.6), I am formally inviting your agency to become a cooperating agency for an Environmental Impact Statement (EIS) on the Lake Worth Inlet, Palm Beach Harbor Feasibility Study. A copy of the Notice of Intent to Prepare an EIS and a Plan View map of the study area is enclosed. Additional information is available on the internet at http://www.portofpalmbeach.com/feasibility_study.htm and www.portofpalmbeach.com/feasibility_study.htm.

Please note that cooperating agency status involves actions and responsibilities beyond that normally associated with a commenting or permitting agency. We request that your role include the following: (1) designate a Point of Contact representing your agency on the Project Delivery Team for this action; (2) provide early review and comment on the EIS and Feasibility Study; and (3) participate in the Feasibility Scoping Meeting (FSM), the Alternative Formulation Briefing (AFB), the public meeting on the Draft EIS, and periodic project meetings and teleconferences.

The conduct of the FSM and AFB and the formulation of the project, alternatives, and mitigation will be in accordance with Engineer Regulation ER 1105-2-100 (<http://www.usace.army.mil/publications/eng-regs/cecw.htm>) and will fully consider a range of environmental, economic, and social factors. As a cooperating agency, you must fully consider the views, needs, and benefits of competing interests.

No cooperating agency will have "veto" over the selection of the project plan, alternatives, or mitigation measures. Under your status as a commenting agency, you may recommend actions not ultimately adopted or implemented by the lead agency. You may also impose requirements to the extent allowed under your legal authority as a permitting agency. Conflict with the lead agency may be resolved through mediation, placing a dissenting opinion in the EIS, withdrawing your cooperating agency status, or the Lead agency pursuing an EIS without you as a cooperating agency. For additional information see the enclosed "Rights and Responsibilities of Lead and Cooperating Agencies" (Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, Council on Environmental Quality, 1981). Additional information on Cooperating Agencies can be found at <http://ceq.eh.doe.gov/nepa/regs/guidance.html>.

Please indicate whether you accept this invitation to become a cooperating agency (as described above) within 30 days of the date of this letter. If you have any questions, please contact Mr. Kenneth Dugger at 904-232-1686 or Ms. Catherine Brooks at 904 232-2130.

Sincerely,



Marie G. Burns
Acting Chief, Planning Division

Enclosures

Copies Furnished:

Ms. Lauren Milligan, Florida Department of Environmental Protection, Office of
Intergovernmental Programs, 3900 Commonwealth Boulevard, MS 47, Tallahassee, Florida
32399-3000

Ms. Sally Mann, Director, Office of Intergovernmental Programs, Florida Department of
Environmental Protection, 3900 Commonwealth Boulevard, MS 47, Tallahassee, Florida
32399-3000

Mr. Jack Long, Florida Department of Environmental Protection Southeast District, 400 North
Congress Avenue, Suite 200, West Palm Beach, Florida 33401



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Planning Division
Environmental Branch

Mr. Paul Souza, Field Supervisor
U.S. Fish and Wildlife Service
1339 20th Street
Vero Beach, Florida 32960-3559

Dear Mr. Souza:

In accordance with regulations pertaining to the National Environmental Policy Act (Title 40 of the Code of Federal Regulations, part 1501.6), I am formally inviting your agency to become a cooperating agency for an Environmental Impact Statement (EIS) on the Lake Worth Inlet, Palm Beach Harbor Feasibility Study. A copy of the Notice of Intent to Prepare an EIS and a Plan View map of the study area is enclosed. Additional information is available on the internet at http://www.portofpalmbeach.com/feasibility_study.htm and www.portofpalmbeach.com/feasibility_study.htm.

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Sincerely,

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Marie G. Burns
Acting Chief, Planning Division

Enclosures



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REPLY TO
ATTENTION OF

Planning Division
Environmental Branch

FEB 22 2008

Mr. Richard Walesky, Palm Beach County
Department of Environmental Resources Management
2300 North Jog Road, Fourth Floor
West Palm Beach, Florida 33411-2743

Dear Mr. Walesky:

In accordance with regulations pertaining to the National Environmental Policy Act (Title 40 of the Code of Federal Regulations, part 1501.6), I am formally inviting your agency to become a cooperating agency for an Environmental Impact Statement (EIS) on the Lake Worth Inlet, Palm Beach Harbor Feasibility Study. A copy of the Notice of Intent to Prepare an EIS and a Plan View map of the study area is enclosed. Additional information is available on the internet at http://www.portofpalmbeach.com/feasibility_study.htm and www.portofpalmbeach.com/feasibility_study.htm.

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Marie G. Burns
Acting Chief, Planning Division

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Planning Division
Environmental Branch

FEB 22 2008

Dr. Roy Crabtree, Southeast Regional Administrator
NOAA Fisheries Service
263 13th Avenue South
St Petersburg, Florida 33701

Dear Dr. Crabtree:

In accordance with regulations pertaining to the National Environmental Policy Act (Title 40 of the Code of Federal Regulations, part 1501.6), I am formally inviting your agency to become a cooperating agency for an Environmental Impact Statement (EIS) on the Lake Worth Inlet, Palm Beach Harbor Feasibility Study. A copy of the Notice of Intent to Prepare an EIS and a Plan View map of the study area is enclosed. Additional information is available on the internet at http://www.portofpalmbeach.com/feasibility_study.htm and www.portofpalmbeach.com/feasibility_study.htm.

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Sincerely,



Marie G. Burns
Acting Chief, Planning Division

Enclosures

Copies Furnished:

Mr. Miles M. Croom, Assistant Regional Administrator, Habitat Conservation Division, NOAA
Fisheries Service, 263 13th Avenue South, Saint Petersburg, Florida 33701
Mr. David M. Bernhart, Assistant Regional Administrator Protective Resources Division, NOAA
Fisheries Service, 263 13th Avenue South, Saint Petersburg, Florida 33701
Mr. Phil Steele, Assistant Regional Administrator Sustainable Fisheries Division, NOAA
Fisheries Service, 263 13th Avenue South, Saint Petersburg, Florida 33701
Ms Jocelyn Karazsia, NOAA Fisheries Service, 400 North Congress Avenue, Suite 120, West
Palm Beach, Florida 33401



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Planning Division
Environmental Branch

FEB 22 2003

Mr. Ken Haddad, Executive Director
Florida Fish and Wildlife Conservation Commission
620 South Meridian Street
Tallahassee, Florida 32399-1600

Dear Mr. Haddad:

In accordance with regulations pertaining to the National Environmental Policy Act (Title 40 of the Code of Federal Regulations, part 1501.6), I am formally inviting your agency to become a cooperating agency for an Environmental Impact Statement (EIS) on the Lake Worth Inlet, Palm Beach Harbor Feasibility Study. A copy of the Notice of Intent to Prepare an EIS and a Plan View map of the study area is enclosed. Additional information is available on the internet at http://www.portofpalmbeach.com/feasibility_study.htm and www.portofpalmbeach.com/feasibility_study.htm.

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Sincerely,



Marie G. Burns
Acting Chief, Planning Division

Enclosures

Copies Furnished:

Mr. Tim Breault, Director, Habitat and Species Conservation, Fish and Wildlife Conservation
Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600
Mr. Chuck Collins, Regional Director, Fish and Wildlife Conservation Commission, 8535
Northlake Boulevard, West Palm Beach, Florida 33412

DEPARTMENT OF DEFENSE**Department of the Army****Army Science Board Plenary Meeting****AGENCY:** Department of the Army, DoD.**ACTION:** Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (U.S.C. 552b, as amended) and 41 Code of the Federal Regulations (CFR 102-3.140 through 160, the Department of the Army announces the following committee meeting:

Name of Committee: Army Science Board (ASB).

Date(s) of Meeting: January 15 & 16, 2008.

Time(s) of Meeting: 0800-1700, January 15, 2008.

0800-1600, January 16, 2008.

Place of Meeting: University of Maryland University College (UMUC) Inn and Conference Center, Adelphi, MD. 3501 University Boulevard E, Adelphi, MD.

FOR FURTHER INFORMATION CONTACT: For information please contact Ms. Sharon Harvey at sharon.harvey1@us.army.mil or (703) 604-7466 or Mr. Wayne Joyner at wayne.joyner@saalt.army.mil or (703) 604-7490.

SUPPLEMENTARY INFORMATION: *Proposed Agenda:* The Army Science Board will meet on January 15 & 16, 2008 at the University of Maryland University College (UMUC) Inn and Conference Center. Purpose of the meeting on both days is to allow each study: Generation Force Functional Census, Institutionalized Lifecycle Management of Innovation Organizations, Information Operations, and Persistent CSR to collect data and hold discussions as it relates to each individual study.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E7-24151 Filed 12-12-07; 8:45 am]

BILLING CODE 3710-08-P

DEPARTMENT OF DEFENSE**Department of the Army****Conservation Measures for Transfer of Federal Land at Parks Reserve Forces Training Area, Dublin, CA****AGENCY:** Department of the Army, DoD.**ACTION:** Notice of requirement.

SUMMARY: Pursuant to the proposed conservation measures found within the U.S. Fish and Wildlife Service

Biological Opinion #1106F1752 dated December 18, 2006, acceptance of any portion of the 170.5-acre land exchange property located at Parks Reserve Forces Training Area (PFRTA), Dublin, CA is conditioned on the developer engaging the U.S. Fish and Wildlife Service in Section 7 or Section 10 Endangered Species Act consultation prior to the development of the aforementioned land. This consultation requirement is because of the potential loss of habitat and potential for take of the endangered San Joaquin Kit Fox (*Vulpes macrotis mutica*), the threatened California red-legged frog (*Rana aurora draytonii*), and the threatened California tiger salamander (*Ambystoma californiense*).

ADDRESSES: Public Affairs Office, U.S. Army CTSC, Camp Parks, 790 5th Street, Dublin, CA 94568-5201.

FOR FURTHER INFORMATION CONTACT:

Amy Phillips, (925) 875-4298, amy.phillips@usar.army.mil.

SUPPLEMENTARY INFORMATION: A Request for Proposal (RFP) regarding the 170.5-acre land exchange property will be available upon request.

Kevin R. Riedler,

Colonel, U.S. Army, Commanding.

[FR Doc. E7-24193 Filed 12-12-07; 8:45 am]

BILLING CODE 3710-08-P

DEPARTMENT OF DEFENSE**Department of the Army; Corps of Engineers****Intent to Prepare a Draft Environmental Impact Statement for Expansion of Lake Worth Inlet (Palm Beach Harbor), FL**

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

COOPERATING AGENCY: Port of Palm Beach District, Riviera Beach, Florida.

ACTION: Notice of intent.

SUMMARY: The Jacksonville District, U.S. Army Corps (Corps) of Engineers intends to prepare a Draft Environmental Impact Statement (EIS) for expansion, including widening and deepening of existing channels and turning basins in Lake Worth Inlet (Palm Beach Harbor). The project is a cooperative effort between the U.S. Army Corps of Engineers (lead Federal agency) and Port of Palm Beach District (non-Federal sponsor and cooperating agency).

ADDRESSES: Ms. Catherine L. Brooks, U.S. Army Corps of Engineers, Jacksonville District, Planning Division, Environmental Section, P.O. Box 4970, Jacksonville, FL 32207.

FOR FURTHER INFORMATION CONTACT:

Catherine L. Brooks at (904) 232-2130.

SUPPLEMENTARY INFORMATION: Authority for the proposed study was received under the House Resolution of June 25, 1998. An expedited Reconnaissance Report completed in 2001 by the Corps, concluded based on preliminary findings, there was a federal interest in pursuing harbor improvements.

Alternatives: The project's expansion alternatives include no action, creation of channel flares, widenings, deepening, turning basin, or a combination of the considered alternatives. Alternatives being considered for disposal of dredged material include Peanut Island (with possible off-load to another use or location), ocean disposal in the Palm Harbor Ocean Dredged Material Disposal Site (which may require expansion or modification), beach placement (if there is sufficient beach compatible material), artificial reef (if there is sufficient suitable rock) and any other disposal or beneficial use options that may become available.

Issues: The EIS will consider impacts on coral reefs and other hardbottom communities, sea grasses, protected species, shore impacts, health and safety, water quality, aesthetics and recreation, fish and wildlife resources, cultural resources, energy conservation, socio-economic resources, navigation, and other impacts identified through scoping, public involvement and interagency coordination.

Scoping: The scoping process will involve Federal, State, County and municipal agencies and other interested persons and organizations. A public and agency scoping meeting will be held on January 9, 2008, at 3 p.m. at the Port of Palm Beach, One East 11th Street, Riviera Beach, FL 33404.

Public Involvement: We invite the participation of affected Federal, State and local agencies, affected Native-American Tribes, and other interested private organizations and individuals. In addition to the agency and public scoping meeting on January 9, 2008, and receipt of written comments at various stages of the Feasibility Study, there will be a public meeting on the Draft Environmental Impact Statement following its preparation. The date, time, and location will be announced.

Coordination: The proposed action is being coordinated with the U.S. Fish and Wildlife Service (FWS) and NOAA-National Marine Fisheries Service (under Section 7 of the Endangered Species Act) and the Wildlife Coordination Act (FWS only). The proposed action is also being coordinated with the Florida State

Enclosure 1

Historic Preservation Officer, the U.S. Coast Guard, and the U.S. Environmental Protection Agency.

Other Environmental Review and Consultation: The proposed action would involve evaluation for compliance with guidelines pursuant to Section 404(b)(1) of the Clean Water Act, water quality certification (application to the State of Florida) pursuant to Section 401 of the Clean Water Act, certification of state lands, easements, and rights-of-way, determination of Coastal Zone Management Act Consistency, and the use of the Ocean Dredged Material Disposal Site for Palm Beach Harbor pursuant to the Marine Protection, Research, and Sanctuaries Act (Ocean Dumping Act).

Agency Role: As the cooperating agency, non-Federal sponsor and leading local expert, the Port of Palm Beach will provide information and assistance on the resources to be impacted, mitigation measures and alternatives. Other agencies having either regulatory authority or special expertise may also be invited to become a cooperating agency in preparation of the EIS.

Draft EIS Preparation: It is estimated that the Draft EIS will be available to the public by November 2008. As the study and EIS develop, additional information will be posted under Palm Beach County on the Jacksonville District's Environmental Documents web page at: <http://planning.saj.usace.army.mil/envdocs/envdocsb.htm>. The status of any Florida Department of Environmental Protection application submitted for permit of this action will be posted on the internet at: <http://www.dep.state.fl.us/beaches/permitting/permits.htm>.

Dated: December 6, 2007.

Marie G. Burns,

Acting Chief, Planning Division.

[FR Doc. E7-24150 Filed 12-12-07; 8:45 am]

BILLING CODE 3710-AJ-P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

U.S. Army Corps of Engineers (Corps) Regulatory Guidance Letter (RGL) 07-02: Exemptions for Construction or Maintenance of Irrigation Ditches and Maintenance of Drainage Ditches under Section 404 of the Clean Water Act (CWA)

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of availability.

SUMMARY: The Corps issued RGL 07-02 to further explain the regulatory exemptions for construction or maintenance of irrigation ditches and maintenance of drainage ditches consistent with Section 404(f) of the CWA (33 U.S.C. 1251 et seq.) and implementing regulations. Specifically, the RGL clarifies when Section 404(f) exempts from permitting requirements discharges of dredged or fill material into waters of the United States associated with the construction and maintenance of irrigation ditches and maintenance of drainage ditches. The RGL also clarifies how certain terms in the regulations at 33 CFR 323.4 are applied in the context of the Sections 404(f) exemptions, including irrigation ditch, drainage ditch, construction, and maintenance. In addition, the guidance provides a framework for determining the applicability of the exemptions and the recapture provision, consistent with the CWA and implementing regulations. This RGL was effective July 4, 2007.

DATES: Comments must be received on or before February 11, 2008.

ADDRESSES: Submit your comments, identified by docket number COE-2007-0038, by one of the following methods:

- **http://www.regulations.gov:** Follow the on-line instructions for submitting comments.
- **E-mail:** Kimberly.S.McLaughlin@usace.army.mil. Include the docket number, COE-2007-0038 in the subject line of the message.
- **Mail:** 441 G Street, NW., Washington, DC 20314.
- **Hand Delivery:** 441 G Street, NW., Washington, DC 20314. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to docket number COE-2007-0038. The Corps's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an "anonymous access" system, which means the Corps will not know your identity or contact information unless you provide it in the body of

your comment. If you send an e-mail comment directly to the Corps without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the Corps recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the Corps cannot read your comment due to technical difficulties and cannot contact you for clarification, the Corps may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at 441 G Street, NW., Washington, DC 20314. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Kim McLaughlin, Regulatory Community of Practice (CECW-CO), U.S. Army Corps of Engineers, Headquarters, 441 G Street, NW., Washington, DC 20314; telephone number: (202) 761-7763; fax number: (202) 761-5096; e-mail address: Kimberly.S.McLaughlin@usace.army.mil.

SUPPLEMENTARY INFORMATION:

I. General Information

The Corps is requesting public comment on RGL 07-02, which is available at: <http://www.usace.army.mil/cw/cecwo/reg/rgls/rgl07-02.pdf>.

At the same time, the Corps appreciates that the public has considerable interest in the issues addressed in this guidance. The Corps is particularly interested in hearing from the public regarding their actual experience with implementing the guidance. The Corps is providing a 60-day public comment period, and encourages the public to provide comments informed by actual experience. To assure the public of our commitment to carefully consider their comments, and to address issues that



LEGEND

--- Federal Harbor Project

--- Potential Improvement Areas (including deepening)



NORTH

Note: Improvement areas are general study areas only; extensive analysis is required prior to refinement and selection of any expansion alternative.

- A-1 - South Channel Flare
- A-2 - North Channel Flare
- B - Widener inside jetties
- C - Widener
- D - Peanut Island Widener
- E - North Turning Basin Widener
- F - Main Turning Basin Eastern Widener
- G - Main Turning Basin Southern Expansion
- #1 - Channel Marker Number

Figure 1
Palm Beach Harbor/Lake Worth Inlet
Navigation Feasibility Study
Study Areas for Potential Improvements
(Widening and Deepening)
United States Army Corps of Engineers

**Forty Most Asked Questions Concerning
CEQ's National Environmental Policy Act Regulations**

Ref: 40 CFR Parts 1500 - 1508 (1987)

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**Excerpt: Forty Most Asked Questions Concerning CEQ's
National Environmental Policy Act Regulations
(Council on Environmental Quality, 1981)**

14a. Rights and Responsibilities of Lead and Cooperating Agencies. What are the respective rights and responsibilities of lead and cooperating agencies? What letters and memoranda must be prepared?

A. After a lead agency has been designated (Sec. 1501.5), that agency has the responsibility to solicit cooperation from other federal agencies that have jurisdiction by law or special expertise on any environmental issue that should be addressed in the EIS being prepared. Where appropriate, the lead agency should seek the cooperation of state or local agencies of similar qualifications. When the proposal may affect an Indian reservation, the agency should consult with the Indian tribe. Section 1508.5. The request for cooperation should come at the earliest possible time in the NEPA process. After discussions with the candidate cooperating agencies, the lead agency and the cooperating agencies are to determine by letter or by memorandum which agencies will undertake cooperating responsibilities. To the extent possible at this stage, responsibilities for specific issues should be assigned. The allocation of responsibilities will be completed during scoping. Section 1501.7(a)(4). Cooperating agencies must assume responsibility for the development of information and the preparation of environmental analyses at the request of the lead agency. Section 1501.6(b)(3). Cooperating agencies are now required by Section 1501.6 to devote staff resources that were normally primarily used to critique or comment on the Draft EIS after its preparation, much earlier in the NEPA process -- primarily at the scoping and Draft EIS preparation stages. If a cooperating agency determines that its resource limitations preclude any involvement, or the degree of involvement (amount of work) requested by the lead agency, it must so inform the lead agency in writing and submit a copy of this correspondence to the Council. Section 1501.6(c). In other words, the potential cooperating agency must decide early if it is able to devote any of its resources to a particular proposal. For this reason the regulation states that an agency may reply to a request for cooperation that "other program commitments preclude any involvement or the degree of involvement requested in the action that is the subject of the environmental impact statement." (Emphasis added). The regulation refers to the "action," rather than to the EIS, to clarify that the agency is taking itself out of all phases of the federal action, not just draft EIS preparation. This means that the agency has determined that it cannot be involved in the later stages of EIS review and comment, as well as decisionmaking on the proposed action. For this reason, cooperating agencies with jurisdiction by law (those which have permitting or other approval authority) cannot opt out entirely of the duty to cooperate on the EIS. See also Question 15, relating specifically to the responsibility of EPA.

14b. How are disputes resolved between lead and cooperating agencies concerning the scope and level of detail of analysis and the quality of data in impact statements?

A. Such disputes are resolved by the agencies themselves. A lead agency, of course, has the ultimate responsibility for the content of an EIS. But it is supposed to use the environmental analysis and recommendations of cooperating agencies with jurisdiction by law or special expertise to the maximum extent possible, consistent with its own responsibilities as lead agency. Section 1501.6(a)(2). If the lead agency leaves out a significant issue or ignores the advice and expertise of the cooperating agency, the EIS may be found later to be inadequate. Similarly, where cooperating agencies have their own decisions to make and they intend to adopt the

environmental impact statement and base their decisions on it, one document should include all of the information necessary for the decisions by the cooperating agencies. Otherwise they may be forced to duplicate the EIS process by issuing a new, more complete EIS or Supplemental EIS, even though the original EIS could have sufficed if it had been properly done at the outset. Thus, both lead and cooperating agencies have a stake in producing a document of good quality. Cooperating agencies also have a duty to participate fully in the scoping process to ensure that the appropriate range of issues is determined early in the EIS process.

Because the EIS is not the Record of Decision, but instead constitutes the information and analysis on which to base a decision, disagreements about conclusions to be drawn from the EIS need not inhibit agencies from issuing a joint document, or adopting another agency's EIS, if the analysis is adequate. Thus, if each agency has its own "preferred alternative," both can be identified in the EIS. Similarly, a cooperating agency with jurisdiction by law may determine in its own ROD that alternative A is the environmentally preferable action, even though the lead agency has decided in its separate ROD that Alternative B is environmentally preferable.

14c. What are the specific responsibilities of federal and state cooperating agencies to review draft EISs?

A. Cooperating agencies (i.e., agencies with jurisdiction by law or special expertise) and agencies that are authorized to develop or enforce environmental standards, must comment on environmental impact statements within their jurisdiction, expertise or authority. Sections 1503.2, 1508.5. If a cooperating agency is satisfied that its views are adequately reflected in the environmental impact statement, it should simply comment accordingly. Conversely, if the cooperating agency determines that a draft EIS is incomplete, inadequate or inaccurate, or it has other comments, it should promptly make such comments, conforming to the requirements of specificity in section 1503.3.

14d. How is the lead agency to treat the comments of another agency with jurisdiction by law or special expertise which has failed or refused to cooperate or participate in scoping or EIS preparation?

A. A lead agency has the responsibility to respond to all substantive comments raising significant issues regarding a draft EIS. Section 1503.4. However, cooperating agencies are generally under an obligation to raise issues or otherwise participate in the EIS process during scoping and EIS preparation if they reasonably can do so. In practical terms, if a cooperating agency fails to cooperate at the outset, such as during scoping, it will find that its comments at a later stage will not be as persuasive to the lead agency.

Note: The complete set of 40 Questions and responses can be viewed at:
http://www.eh.doe.gov/nepa/tools/guidance/Volume1/4-1-40_questions.html

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